

Attorney Docket No. 09143-005001



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Lynn Perkes

Art Unit : 1614

Serial No. : 09/194,165

Examiner : Patricia Patten

Filed : November 20, 1998

Title : DIETARY SUPPLEMENTS CONTAINING NATURAL INGREDIENTS

Commissioner for Patents

Washington, D.C. 20231

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JUL 09 2003

DECLARATION UNDER 37 C.F.R. § 1.132 OF SUK CHO

I, Suk Cho, declare as follows:

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- Considered
7/16/03
pp*
1. I am a citizen of the United States and presently live at 2610 West Charlotte Drive, Idaho Falls, Idaho, 83402.
 2. I am presently employed by Melaleuca Inc., and have been so employed since 1998.
 3. I received a Ph.D. in organic chemistry from Emory University, Atlanta, Georgia.
 4. I have read the above-reference patent application, pending claims, and the Examiner's Office Actions mailed August 13, 2002 and May 1, 2003, including the sections where the Examiner contends that the skilled artisan would not be able to ascertain how to make grape seed extracts and grape skin extracts upon reading the patent application.
 5. Grape seed extracts containing flavonoids and grape skin extracts containing flavonoids were well known as of 1997. In fact, many companies sold grape seed and grape skin extracts containing flavonoids as of 1997.
 6. As a chemist, I would have been able to use standard extraction techniques to make grape seed and grape skin extracts containing flavonoids as of 1997. For example,

I would have been able to follow standard extraction techniques, such as those described in the references discussed in Applicant's Response filed February 12, 2003 (e.g., U.S. Patent No. 5,484,594), to obtain various grape seed and grape skin extracts containing flavonoids. In general, making flavonoid-containing extracts from grape seeds and grape skins involves using routine, well known procedures.

7. Following the teachings in the above-referenced patent application, I would have been able to make dietary supplements containing grape seed and grape skin extracts containing flavonoids as of 1997. For example, I would have been able to measure the amounts of grape seed extract, grape skin extract, and enzyme needed to obtain a dietary supplement recited in present claim 48. In addition, I would have been able to mix the measured amounts of grape seed extract, grape skin extract, and enzyme to obtain a dietary supplement recited in present claim 48. Measuring and mixing amounts of grape seed extract, grape skin extract, and enzyme involves standard laboratory techniques.

8. Following the teachings in the above-referenced patent application, I would have been able to evaluate dietary supplements for the ability to inhibit platelet aggregation. For example, I would have been able to follow the *ex vivo* procedures described in Example 1 of the above-referenced patent application to determine whether a dietary supplement inhibited platelet aggregation. The techniques used to assess platelet aggregation are standard techniques that can be performed by a trained laboratory technician.

9. Likewise, following the teachings in the above-referenced patent application, I would have been able to evaluate dietary supplements for the ability to protect LDL cholesterol from oxidation. For example, I would have been able to follow the procedures described in Example 2 of the above-referenced patent application to determine whether a dietary supplement protected LDL cholesterol from oxidation. The techniques used to assess oxidation of LDL cholesterol are standard techniques that can be performed by a trained laboratory technician.

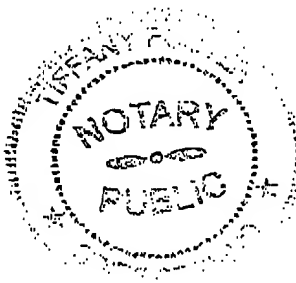
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10. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the instant patent application or any patent issuing thereon.

Dated: July 1, 2003Suk Cho
Suk Cho

STATE OF Idaho)
) ss.
COUNTY OF Bonnieville)

Before me this 1 day of July, 2003, personally appeared Suk Cho known to me to be the person whose name is subscribed to the foregoing Declaration, and acknowledged that he executed the same as his free act and deed for the purposes therein contained.

Tiffany Foster
Notary Public

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